IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.178 OF 2000.
AND
INCOME TAX APPLICATION NO.179 OF 2000.
AND
INCOME TAX APPLICATION NO.188 OF 2000.

The Commissioner of Income Tax ..Applicant

Vs.

M/s.Greaves Cotton Manufacturing Co.Ltd. ..Respondent

Mr.A.D.Kango for the Applicant.
Mr.S.J.Mehta for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.

DATE : 16TH APRIL, 2007

P.C.

1. Heard the learned Counsel for the parties. In the above Applications, the following substantial question of law sought to be raised:

> "Whether on the facts and in the circumstances of the case and in law, Income Tax Appellate Tribunal was justified in holding that the allocation of the financial charges for working out the eligible profit for the purpose of computing the deduction under Section 80 I in respect of the Nasik Unit was not in order?"

2. We have perused the order dated 9th June,1995 passed by the Tribunal. In paragraph 16 of its order the Tribunal had observed as under:

> 16. The last issue relates to the allowability of deduction under Section 80 I. The assessee company put up a new unit Phase II at Nasik. This was eligible for relief under Section 80 I of the Act. The Assessee produced Profit & Loss

> Account for the purpose of computing relief under Section 80 I which reflected net loss of Rs.11,92,173/- in the Profit & Loss Account. The assessee has debited financial charges of head officer allocated to new unit of Rs.12,21,677/-. The Tribunal in the case of Manipal Power Press Vs. ITO (29 ITJ (Bang.)197), has held that financial charges of head office should not be allocated for computing profit of new unit for the purpose of computing relief under Section 80 I of the Act. The Commissioner of Income Tax (Appeals) declined to follow the decision of the Tribunal, as no contrary decision was brought before us, we find no reason to depart. Accordingly, we decide this issue in favour of the assessee and against the revenue.

3. In the above matters, the Tribunal had relied on the judgment in the case of **Manipal Power Press Vs. ITO (29 ITJ (Banglore), 197)** and held that the issue should be answered in favour of the Assessee and against the Revenue. The learned Counsel for the Applicants fairly states that the Revenue has not challenged the aforesaid judgment and accepted the same.

4. Over and above, it appears that the Tribunal had passed the order in the Assessee's case for the Assessment Year 1983-84 to 1985-86. The learned Counsel for the Revenue states that the Revenue has not challenged the said order. Under the aforesaid facts and circumstances of the case, we do not find any substantial question of law involved in the above.

Hence, the Applications stand dismissed.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**